

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BIKASH MOHAN MOHANTY, Individually
And On Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMIR BASSAN-ESKENAZI, RAN OZ,
FREDERICK BALL, GAL ISRAELY, DEAN
GILBERT, KEN GOLDMAN, LLOYD
CARNEY, BRUCE SACHS, ROBERT
SACHS, GEOFFREY YANG, MORGAN
STANLEY & CO. INC., MERRILL LYNCH
PIERCE FENNER & SMITH INC., JEFFRIES
& CO. INC., THINKEQUITY PARTNERS
LLC, BIGBAND NETWORKS INC. and
COWEN & CO. INC.,

Defendants.

No. 4:07-cv-05101-SBA

**[PROPOSED] ORDER GRANTING
MOTION OF SPHERA FUND FOR
CONSOLIDATION FO RELATED
ACTIONS, APPOINTMENT AS LEAD
PLAINTIFF AND APPROVAL OF
LEAD PLAINTIFF'S SELECTION
OF CO-LEAD COUNSEL**

Date: January 8, 2008

Time: 1:00 p.m.

Courtroom 3

Hon. Saundra B. Armstrong

DENNIS KOESTERER, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

BIGBAND NETWORKS INC., AMIR
BASSAN-ESKENAZI, FREDERICK A.
BALL, RAN OZ, LLOYD CARNEY, DEAN
GILBERT, KENNETH A. GOLDMAN, GAL
ISRAELY, BRUCE SACHS, ROBERT
SACHS and GEOFFREY YANG,

Defendants.

No. 3:07-cv-05168-MMC

[Captions Continue on Following Pages]

ABRENA WINSTON, Individually And On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS INC., RAN OZ,
FREDERICK A. BALL, GAL ISRAELY,
DEAN GILBERT, KENNETH A.
GOLDMAN, LLOYD CARNEY, BRUCE I.
SACHS, ROBERT J. SACHS, GEOFFREY Y.
YANG, MERRILL LYNCH PIERCE
FENNER & SMITH INCORPORATED,
MORGAN STANLEY & CO.
INCORPORATED, COWEN & COMPANY
INC., JEFFRIES & COMPANY INC., LLC,
and THINKEQUITY PARTNERS LLC,

Defendants.

No. 3:07-cv-05327-JSW

DONALD SMITH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR
BASSAN-ESKENAZI, FREDERICK A.
BALL,

Defendants.

No. 3:07-cv-05361-SI

[Captions Continue on Following Pages]

WAYNE LUZON, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

BIGBAND NETWORKS INC., AMIR
BASSAN-ESKENAZI, RAN OZ,
FREDERICK A. BALL, GAL ISRAELY,
DEAN GILBERT, KENNETH A.
GOLDMAN, LLOYD CARNEY, BRUCE I.
SACHS, ROBERT J. SACHS, GEOFFREY Y.
YANG, MORGAN STANLEY & CO.
INCORPORATED, MERRILL LYNCH
PIERCE FENNER & SMITH
INCORPORATED, JEFFRIES & COMPANY
INC., COWEN & COMPANY LLC and
THINKEQUITY PARTNERS LLC,

Defendants.

No. 3:07-cv-05637-WHA

DEBRA L. BERNSTEIN, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

BIGBAND NETWORKS, INC., AMIR
BASSAN-ESKENAZI, RAN OZ,
FREDERICK A. BALL, GAL ISRAELY,
DEAN GILBERT, KENNETH A.
GOLDMAN, LLOYD CARNEY, BRUCE I.
SACHS, ROBERT J. SACHS, GEOFFREY Y.
YANG, MORGAN STANLEY & CO.
INCORPORATED, JEFFRIES & COMPANY
INC., MERRILL LYNCH, PIERCE FENNER
& SMITH INCORPORATED, COWEN &
COMPANY LLC and THINKEQUITY
PARTNERS LLC,

Defendants.

No. 3:07-cv-05819-CRB

[Captions Continue on Following Page]

EUGENE L. HAMMER, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

BIGBAND NETWORKS INC., AMIR
BASSAN-ESKENAZI, RAN OZ,
FREDERICK A. BALL, LLOYD CARNEY,
DEAN GILBERT, KENNETH A.
GOLDMAN, GAL ISRAELY, BRUCE I.
SACHS, ROBERT J. SACHS and GEOFFREY
Y. YANG,

Defendants.

No. 3:07-cv-05825-MHP

[PROPOSED] ORDER

Having considered the motion of Sphera Fund for consolidation fo related actions,
appointment as Lead Plaintiff and for approval of Lead Plaintiff's selection of Co-Lead Counsel,
the memorandum of law in support thereof, the declaration of Lionel Z. Glancy in support of that
motion and good cause appearing therefor,

IT IS HEREBY ORDERED:

- 1) The Motion is granted.
- 2) This Order (the "Order") shall apply to the above-captioned action (the "Action")
and to each case that relates to the same subject matter that is subsequently filed in this Court or
is transferred to this Court and consolidated with the Action
(collectively, the "Consolidated Action").
- 3) An original of this Order shall be filed by the Clerk in the Master File.
- 4) The Clerk shall mail a copy of this Order to counsel of record in the
Consolidated Action.
- 5) Every pleading in the Consolidated Action shall have the following caption:

IN RE BIGBAND NETWORKS, INC.
SECURITIES LITIGATION

No.4:07-cv-05101-SBA

6) Each new case that arises out of the subject matter of the Consolidated Action which is filed in this Court or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party objects to consolidation, as provided for herein, or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, by filing an application for relief and this Court deems it appropriate to grant such application. Nothing in the foregoing shall be construed as a waiver of Defendants' right to object to consolidation of any subsequently filed or transferred related action.

7) The Court requests the assistance of counsel in calling attention to the Clerk of this Court the filing or transfer of any case that might properly be consolidated as part of the Consolidated Action.

8) When a case that arises out of the same subject matter as the Consolidated Action is hereinafter filed in this Court or transferred from another Court, the Clerk of this Court shall:

- a) file a copy of this Order in the separate file for such action;
- b) mail a copy of this Order to the attorneys for the plaintiff(s) in the newly filed or transferred case and to any new defendant(s) in the newly filed case; and
- c) make the appropriate entry in the Master Docket for the Consolidated Action.

9) Movant Sphera Fund is appointed to serve as Lead Plaintiff in the above-captioned Action, pursuant to 15 U.S.C. §77z-1(a)(3)(B).

10) The law firms Glancy Binkow & Goldberg LLP and The Law Office of Jacob Sabo are hereby approved as Co-Lead Counsel for the Class. Lead Counsel shall provide general supervision of the activities of plaintiff's counsel and shall have the following responsibilities and

1 duties to perform or delegate as appropriate:

- 2 a) to brief and argue motions;
- 3 b) to initiate and conduct discovery, including, without limitation,
- 4 coordination of discovery with defendants' counsel, preparation of written interrogatories,
- 5 requests for admission and requests for production of documents;
- 6 c) to direct and coordinate the examination of witnesses in depositions;
- 7 d) to act as spokesperson at pretrial conferences;
- 8 e) to call and chair meetings of plaintiffs' counsel as appropriate or necessary
- 9 from time to time;
- 10 f) to initiate and conduct any settlement negotiations with counsel for
- 11 defendants;
- 12 g) to provide general coordination of the activities of plaintiffs' counsel
- 13 and to delegate work responsibilities to selected counsel as may be required in such a manner as
- 14 to lead to the orderly and efficient prosecution of this litigation and to avoid duplication or
- 15 unproductive effort;
- 16 h) to consult and employ experts;
- 17 i) to receive and review periodic time reports of all attorneys on behalf of
- 18 plaintiffs, to determine if the time is being spent appropriately and for the benefit of
- 19 plaintiffs and to determine and distribute plaintiffs' attorneys' fees; and
- 20 j) to perform such other duties as may be expressly authorized by further
- 21 order of this Court.
- 22
- 23

24 Dated: _____, 2007

Honorable Sandra B. Armstrong
United States District Judge

Submitted by:

Lionel Z. Glancy (#134180)

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*Attorneys for Movant Sphera Fund
and Proposed Co-Lead Counsel*